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CENTER OF GRAVITY: JUSTIFICATION FOR ASSASSINATION?

BY

**LIEUTENANT COLONEL J. MANNING BOLCHOZ
United States Army**

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USAWC STRATEGY RESEARCH PROJECT

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by

LTC J. Manning Bolchoz
U.S. Army

COL Jay E. Lawson
Project Advisor

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U.S. Army War College
CARLISLE BARRACKS, PENNSYLVANIA 17013

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ABSTRACT

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This paper will examine whether identifying a foreign leader who poses a threat to United States national interests and therefore is a center of gravity is sufficient justification for political assassination. In spite of written directions and historical precedent against political assassination, the United Nations Charter provides a legal basis for the U.S. to target political leaders that would not constitute a violation of the law and, therefore, would not be characterized legally as political assassination. However, the political ramifications, the risk, the difficulty, and the moral questions generated by political assassination are far too great and far outweigh the legal justification. The U.S. should never adopt political assassination as one of its elements of power. In fact, in order to fully clarify this issue, the U.S. Congress should adopt formal legislation making political assassination illegal.

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CENTER OF GRAVITY: JUSTIFICATION FOR ASSASSINATION?

The September 1997 National Military Strategy states that the primary purpose of the United States Armed Forces is "to deter threats of organized violence against the United States and its interests, and to defeat such threats should deterrence fail."¹ In other words, "our Armed Forces' foremost task is to fight and win our Nation's wars."²

But what does defeating such threats entail? In the 1800's, Karl von Clausewitz pondered this very same question. He advised that the defeat of an enemy's territory or army might not always be necessary. Clausewitz cautioned that the military planner must keep in mind the dominant characteristics of one's enemy. From these characteristics a certain center of gravity develops, the hub of all power and movement, on which everything depends. He goes on to write that it is the point at which all our energies should be directed in order to achieve victory.³

While this concept has been in existence for years, it is only in relatively recent years that military planners have begun to seriously and formally incorporate the idea of defeating an enemy's center of gravity while at the same time protecting one's own. Today, the concept of center of gravity is an integral component in the campaign planning process. More importantly, it is now a formal step in that process. Also accepted throughout the joint community as a Department of Defense concept, Joint Pub

1-02 defines centers of gravity as those characteristics, capabilities, or localities from which a military force derives its freedom of action, physical strength, or will to fight.⁴

But what happens when strategic planners determine that a foreign political leader is in fact a center of gravity? What happens when a head of state is identified as being that hub of all power on which everything depends? According to the 1800's Clausewitzian theory, this should then be where all our energies are directed in order to achieve one's goals. "Only by constantly seeking out the center of his power, by daring all to win all, will one really defeat the enemy."⁵ As the final year of this millenium begins, does identifying a political leader as a center of gravity give a nation the right to target that particular individual for assassination? Are there legal, political, or moral arguments that allow one to kill a foreign leader in an effort to defeat the enemy? The thesis of this paper is that while legally acceptable, political assassination is far too risky and costly, is morally unacceptable, and should not be an appropriate action for the United States, either as an option or as a deterrent. In fact, in order to clarify U.S. national policy beyond a reasonable doubt, the U.S. should adopt formal legislation banning political assassination.

ASSUMPTIONS

Several assumptions are germane to this thesis. There must be agreement as to the basic terms that will be used throughout this paper. First, the definition of center of gravity as defined above is an accepted and agreed upon concept. As for political assassination, there does not appear to be any specific, agreed upon definition. In his Memorandum of Law on "Executive Order 12333 and Assassination," W. Hays Parks offers a series of definitions of assassination from a variety of sources. While each definition is similar, none are exactly the same. However, a common theme does appear to be the killing by violent means of a prominent government leader for political purposes.⁶ World Book Encyclopedia defines assassination as "the murder of a person who holds a position of public importance."⁷ It goes on to state that assassinations are often executed for one of three reasons: to gain revenge, to earn a reward, or to remove a political enemy from office.⁸ For purposes of this paper, the use of the phrase "assassination" will focus on the World Book definition and this third reason - the removal of a political enemy. This definition is in general agreement with that proposed by Parks and used by Lt Col Alvin Keller in his research paper "Targeting the Head of State During the Gulf Conflict, A Legal Analysis."⁹ Therefore, the phrase 'political assassination' as a means of destroying an enemy's center of

gravity refers to the murder of a person who holds a position of public importance for the purpose of defeating the enemy and gaining strategic victory. Also, while some of the sources use the term assassination versus political assassination, political assassination will be used herein. This is done for the reason cited above - to focus on political leaders as opposed to prisoners of war, refugees, and any number of other categories of persons who may be subject to lawful or unlawful killing during times of peace and war.

For the purposes of this paper, agreement with the writer's choices of certain political leaders as centers of gravity is assumed. It is also assumed that the National Security Council has engaged in a coherent, rational process that has led them to the conclusion that the political leader who would be targeted for assassination is in fact that nation's center of gravity. Examples are intended to be illustrative with the intent of framing the issue of political assassination. No attempt will be made to rationalize or justify the examples. This would be detrimental and shift the focus of the research away from the central discussion of the validity of political assassination.

Additionally, it is assumed that political assassination, as a means of defeating an adversary's center of gravity, is an option that is applicable during both war and conflict. In other words, political assassination is just as relevant an option during conflict as it is during war and, in fact, may be a

deterrent to full-scale war. This is an important assumption. In today's volatile and uncertain world, the lines between war, conflict, and peace are often vague. Even in a major campaign such as DESERT STORM, which most of us would probably agree was war, no one ever formally declared war. The lines blur even further when one considers the destructive potential of weapons of mass destruction (WMD) in the hands of an adversarial head of state. In fact, the use of WMD even during peacetime has the potential to cause as much destruction in terms of loss of life as some wars. Therefore in this paper, the applicability of political assassination will be examined without regard to the states of the environment - war, conflict, or peace.¹⁰

A BRIEF HISTORY

Political assassination has a long, colorful, and questionable history. It could be argued that political assassination began during the Roman Empire when Brutus led the assassination of Julius Ceasar.¹¹ A more recent example was the assassination of Archduke Ferdinand of Austria in 1914, which was one of the causes of World War 1.¹² Despite what one may think, the U.S. has its own legacy in this difficult area. While there does not appear to be any substantiated proof that the U.S. has conducted political assassinations, the 1975 Church Committee's Interim Report indicated that the CIA had at a minimum given

"operational thought" to assassination plots against Fidel Castro of Cuba, Patrice Lumumba of the Congo, and Rafael Trujillo of the Dominican Republic.¹³ Additionally, Parks cites the murders of Martin Luther King and Presidents Lincoln, Garfield, McKinley, and Kennedy as political assassinations.¹⁴ While these murders do not seem a good fit because they were not carried out at the bequest of another nation state, they do fall under the definition of political assassination because, according to Parks, they were killings of public figures or national leaders for political purposes.¹⁵ This also matches the definition that was proposed earlier in the assumptions.

Authors who have written on the subject of political assassination might argue as to whether various murders over the years might qualify as political assassinations or not. Any informed discussion in this area must be preceded by an analysis of the legal aspects of political assassination.

THE LEGAL ARGUMENT

In spite of written directions and historical precedent against political assassination, there is legal basis for the U.S. to target political leaders such that it would not constitute a violation of law and, therefore, would not be characterized "legally" as political assassination. Contrary to this legal precedence, there is ample doctrinal opinion against

political assassination. The scope of assassination in the U.S. military was first outlined in U.S. Army General Orders No. 100 in 1863. This order states:

The law of war does not allow proclaiming either an individual belonging to the hostile army, or a citizen, or a subject of the hostile government, an outlaw, who may be slain without trial by any captor, any more than the modern law of peace allows such international outlawry; on the contrary, it abhors such outrage..¹⁶

This doctrine was continued and incorporated into the law of land warfare for the U.S. Army in Army Field Manual (FM) 27-10. In drawing on Article 23, Annex to Hague Convention No. IV, Article 31 of FM 27-10 states:

It is especially forbidden to kill or wound treacherously individuals belonging to the hostile nation or army. This article is construed as prohibiting assassination, proscription, or outlawry of an enemy, or putting a price upon an enemy's head, as well as offering a reward for an enemy "dead or alive". It does not, however, preclude attacks on individual soldiers or officers of the enemy whether in the zone of hostilities, occupied territory, or elsewhere..¹⁷

Furthermore, FM 27-10 clearly notes that:

Lawmaking treaties (such as the Hague and Geneva Conventions) may be compared with legislative enactments in the national law of the United States... Under the Constitution of the United States, treaties constitute part of the "supreme Law of the Land" (art VI, clause 2). In consequence, treaties relating to the law of war have a force equal to that of laws enacted by Congress. Their provisions must be observed by both military and civilian personnel with the same regard for both the letter and spirit of the law which is required with respect to the Constitution and statutes enacted in pursuance thereof..¹⁸

So from a historical and doctrinal perspective, it would appear that the Army does not view political assassination as a legal option.

Policy developed in the executive and legislative branches over the past thirty years is of an equally negative nature. The Church Committee final report in 1976 appears to be the first effort to address and legislate in American law political assassination. In fact, the Church Committee's final report specifically recommended the prohibition of all political assassination and went on to say "traditional values of fair play should guide all American activities on the international scene."¹⁹ In stronger language, the report further called for "intervention by Congress to proscribe it (ban on political assassination) as a matter of law."²⁰ And despite proposals by other committees since then, there has never been any U.S. legislation that makes political assassination illegal.

However, in 1976, President Ford issued Executive Order (EO) 11905 that specifically forbade peacetime assassination activities. Section 5(g) states that "No employee of the United States Government shall engage in, or conspire to engage in, political assassination."²¹ In 1978, President Carter replaced EO 11905 with EO 12036. This EO retained the Ford ban on political assassination (using nearly identical words) yet still did not go so far as to legislate against assassination.²² Finally, in 1981, President Reagan continued the ban on political assassination by

issuing EO 12333. In fact, Part 2.11 restates the exact same prohibitory words used by Carter in EO 12036.²³

Although EO 12333 and the Army's FM 27-10 remain in effect, Parks argues that Article 51 of the Charter of the United Nations recognizes "the inherent right of self defense of nations."²⁴ He goes on and cites examples supporting his argument that:

Historically the U.S. has resorted to the use of military force to discharge its international responsibilities in protecting U.S. citizens from acts of violence originating in or launched from its sovereign territories...²⁵

Parks argues that the right of self-defense against a continuing threat to American citizens or our national security would provide sufficient justification for the U.S. to employ military force to negate this threat. This includes the right to attack terrorist leaders or other organizations whose actions pose a threat to our security.²⁶ Parks also concludes that targeting a head of state serving as commander-in-chief may constitute a lawful target and, therefore, would not be an assassination.²⁷ A careful review of these last two statements could allow the development of a fairly lengthy list of political leaders who the U.S. could target for military action and not be susceptible to charges of assassination.²⁸

In summarizing the legal, doctrinal, and policy arguments, there is no U.S. Congressional legislation banning assassination. In fact, to the contrary and despite several recommendations that it be done, there has been a hesitance to legislate this ban.

While EO 12333 and FM 27-10 prohibit assassination, the U.S. interpretation of Article 51 of the Charter of the United Nations would allow the legal targeting of political leaders who pose a threat either to our citizens or to our national security. In his related work on this subject, Keller reaches a similar conclusion.²⁹

THE POLITICAL ARGUMENT

There is tremendous risk in adopting a national policy that supports, encourages, or even recognizes political assassination as a potential military option in order to serve strategic American interests abroad. While the evidence and/or arguments against political assassination here are less factual, they are no less important and certainly compelling. First, one must consider the risk of retribution. To use a corny phrase, 'what's good for the goose is good for the gander.' Should political leaders be subject to the risk of being targeted for assassination by other nations or organizations? Consider the outrage felt by this nation when it was discovered that the government of Iraq had plotted to assassinate former President Bush during one of his trips to the Mideast in 1993. Also remember the definitive action that President Clinton took in response to this attempt. On June 27, the U.S. Navy launched 23 Tomahawk cruise missiles at the Iraqi intelligence headquarters

in Baghdad.³⁰ Also, note that the strike was against the headquarters where the assassination plot was planned and not against Iraqi President Saddam Hussein. This nation does not want to subject its political leadership to the possibility of assassination attempts simply for the sake of retribution.

The idea of access also deserves consideration. While political leaders receive a great deal of security (especially in the case of the Executive Branch), they also like, want, and need access to the public. The American system of government requires feedback between the elected and the electing. All elected officials need this access to the people and many of them thrive on it. This is just as true in the executive branch as it is in the legislative branch. With all of the problems that President Clinton is experiencing today, he continues to meet with and talk to the American people. It is as if he believes he can influence the Congress through the American people. This is evident in the unprecedented popularity President Clinton enjoys in the polls. Congress is also beginning to take note of this popularity and is recognizing President Clinton's closeness to the American people. American leaders and their constituents are not willing to give up this relatively good access in exchange for security to prevent assassination.

The idea of political assassination as an accepted pattern of U.S. policy could potentially endanger the U.S. system of democratic government. The immediate reaction to this statement

is one of disbelief. However, think back over just the past century of U.S. history. As one contemplates some of the significant conflicts of the 20th century such as World Wars I and II, Korea, Vietnam, JUST CAUSE, DESERT STORM, and Somalia, do any political leaders come to mind as potential centers of gravity? As a minimum, one might suggest Adolf Hitler in Germany, Manuel Noriega in Panama, Saddam Hussein in Iraq, and Mohammed Farah Aideed in Somalia have been good potential candidates as centers of gravity. According to the definition of center of gravity, this would then make them all good candidates for assassination. But the examples cited here only concern war or conflict at the edge of the spectrum close to war. How about other scenarios where war is not so inevitable? According to David Wise, the CIA was involved, directly or indirectly, in plots against seven foreign leaders: Castro of Cuba; Lumumba of the Congo; Trujillo of the Dominican Republic; Ngo Dinh Diem of South Vietnam; Francois Duvalier of Haiti; and Sukarno of Indonesia.³¹ One could probably also add Moammar Gadhafi of Libya and Idi Amin of Uganda to this list. It is not absolutely critical that everyone agrees that each of these leaders were in fact centers of gravity. In fact, this list probably does not include other dangerous leaders who were centers of gravity during some level of conflict with the U.S.

What is important is that with only a little reflection and some outside help, 13 foreign heads of state during this century

have been identified that may have been good targets for political assassination by the U.S. - 13 in 100 years. It is also extremely difficult and very risky to attempt to distinguish how much more of a monster one of these leaders is in comparison to another. The result is that it begins to make political assassination look like the norm - like a pattern of behavior - like policy. That is dangerous. It puts the U.S. in the undesirable position of having a national policy that now invites similar policies by other nations or other international actors. Potential retribution against U.S. leadership becomes the norm. Remember, 'what's good for the goose is good for the gander.' This then impacts on U.S. leadership's access to the people, and access becomes restricted not on a case-by-case basis but as the norm. Americans are not prepared for restricted access to their elected leaders because of U.S. international policy.

The political risk is also tremendous. The U.S. is undeniably recognized as the world's only superpower. The rest of the world looks to the U.S. for leadership. In his address in St. Louis, Pope John Paul II further commented that "... radical changes in world politics leave America with a heightened sense of responsibility to be for the world an example of a genuinely free, democratic, just, and humane society."³² How can the U.S. provide moral leadership if it adopts a policy (formally or not) that allows assassination of foreign leaders? The political damage as well as international embarrassment that could be done

by having such a plan exposed would be enormous. It could also harm this country irreparably in the United Nations where the U.S. is the most watched (and often criticized) nation in the world. While many nations seek to follow the lead of the U.S., many others look for any justification to ridicule it as the great, evil empire.

THE MORAL AMERICAN HIGH GROUND

The Church Committee's final report specifically recommended the prohibition of all political assassination and went on to say "traditional values of fair play should guide all American activities on the international scene." Oseth argues that the Church Committee's objection to assassination was not only on legal grounds but also on moral grounds. He believes that the committee's objection also dealt with "considerations of morality and conformance to American behavior abroad with American principles and ideals."³³

Doing the right thing has always been and will always be important to Americans. It is important, as a nation and as individuals, to engage in morally and ethically correct behavior. In his address during a prayer service at the Cathedral Basilica in St. Louis, Pope John Paul II offered these thoughts on America's role as a moral leader in today's volatile and uncertain world:

God has given us a moral law to guide us and protect us from falling back in to the slavery of sin and falsehood...The Ten Commandments are the charter of true freedom, for individuals as well as for society as a whole. America first proclaimed its independence on the basis of self-evident moral truths. America will remain a beacon of freedom for the world as long as it stands by those moral truths which are the very heart of its historical experience.³⁴

Moral leadership must be matched by moral action. Most of the world frowns on political assassination - much as Americans frowned on Iraq when they learned of the failed plan to assassinate President George Bush. How then can the U.S. adopt a course of action that goes to the contrary - no matter how one justifies it?

Another aspect of the moral issue is whose interpretation of what is morally correct does one accept? If the political leader of Country X is assassinated in the name of defending American citizens from further terrorist attacks, is it a morally defensible action? The U.S. would certainly say yes. Brilmayer would contend that Country X might say that this was simply another case of the stronger nation imposing its will on those unable to resist. He concludes by saying that while the U.S. was acting and motivated by visions of a safer and better world, the vision it furthers is certainly a U.S. vision at the expense of Country X.³⁵

Another issue in the moral argument is when and where the U.S. decides to act. If the U.S. decides it needs to assassinate Gadhafi in order to stop Libyan sponsored terrorism, how does it

rationalize not assassinating Hussein or one of many other foreign leaders who one could easily identify as a menace to a stable and secure world? Brilmayer identifies this as selective involvement.³⁶ And while the U.S. can defend selective involvement in terms of achieving its national interests, it is very difficult to defend in terms of moral principles. After all, American international policies ought to be defensible as well as consistent.

A DIFFICULT AND RISKY TASK

All other arguments aside, political assassination is just too difficult and too risky. First, tracking and locating a person or persons for the purpose of assassination requires tremendous resources, especially from the intelligence community. The person or persons being targeted will, under most circumstances, realize that they are being looked at unfavorably by the U.S. As Hussein of Iraq and Aideed of Somalia have shown us in the recent past, a hunted person can be very clever in avoiding the U.S. military. Often, the closed societies in which they govern will further aid their ability to hide. Human intelligence (HUMINT) is often the linchpin in tracking human targets. Unfortunately, HUMINT is needed most but often weakest in these very closed societies where the leaders rule in an atmosphere of fear, suspicion, and brutality.

Even in a relatively small and permissive environment, tracking one individual can be a difficult task. Despite our established presence in Panama, in its post-invasion investigation, the House Armed Services Committee criticized the U.S. inability to track and locate Noriega. The report goes on to state that despite SOUTHCOM claims that they knew where Noriega was 75 to 80 percent of the time, "this was not sufficient to apprehend him."³⁷

Another problem is the fact that this type of search effort can become resource intensive. Because of the difficulty, one solution is to throw more resources at the problem. As witnessed in Somalia, finding the man becomes the mission. All resources are devoted to this effort at the expense of other, possibly equally important, issues. Everything else - especially the mission - becomes shrouded. While not directly related to assassination, BG(P) John Stewart, the ARCENT G2 during Desert Storm, relayed his thoughts about competing demands for intelligence resources:

... we had competing requirements... During the two months before G-Day, we had to provide Indications and Warning of preemptive action by the Iraqis, develop and validate targets, assess battle damage - a big user of imagery - and maintain precise composition, disposition, and strength of tactical defenses, operational reserves, and theater reserves for campaign planning and operations.³⁸

However, one month after D-Day, CENTCOM diverted a significant level of its resources (to include intelligence) to search for Iraqi SCUDs. Stewart goes so far as to state that "the delayed

destruction of Iraqi air defenses, as I understand it, was due because of the bleed-off of sorties from the KTO to the strategic campaign and SCUD hunting."³⁹ This is how significant competing resources can be.

Finally, how can one be sure that assassinating a foreign head of state will accomplish a desired end state? If the U.S. had assassinated Hussein during the Persian Gulf conflict in 1991, would it be any better off today? It is hard to say. While the U.S. and the international community may have ridden itself of Hussein, his successor may have proven to be just as distasteful to U.S. national interests. Who knows what sort of retribution he might have sought on behalf of an assassinated leader? Or maybe such a successor would have been better able to rally other empathetic Mideast nations around an Iraq that has been isolated and beleaguered for far too long by the evil westerners. The simple point is that political assassination does not assure protection of American interests or furtherance of our ideals. McClintock argues that we should not take actions which might have short-term solutions but the results of which are certainly questionable in the long term.:

That a bout of political assassination or a commando raid can turn around a situation overnight, however, is a premise that finds little application to the realities of situations like those of El Salvador or Nicaragua in the mid-1980s.⁴⁰

McClintock goes on to note that "ethical considerations may be the key to winning, and hunter-killer commando raids or

assassinations that achieve minor objectives may well torpedo any reasonable expectation of winning over people."⁴¹

CONCLUSION

As mentioned earlier, Clausewitz cautioned that, in order to achieve victory, the military planner must keep in mind the dominant characteristics of one's enemy. And out of these characteristics, a certain center of gravity develops, the hub of all power and movement, on which everything depends. This is the point at which all energies should be directed.⁴² Whether in war or peace, the U.S. frequently find itself at odds with an adversary whose leader is determined to be that center of gravity. According to Clausewitz, this would be the justification for targeting that leader for assassination. As discussed previously, in these cases, the U.S. could probably find sufficient international legal basis for conducting such an action. However, the political ramifications, the risk, the difficulty, and the moral questions generated by political assassination are far too great and far outweigh the legal justification. The U.S. should never adopt political assassination as one of its elements of power.

Parks notes that even assassinating heads of state who serve as commanders-in-chief of their armed forces has generally been limited as a matter of comity.⁴³ That is to say, these attacks

have been restricted as a set of rules that nation states extend to one another from courtesy or mutual convenience, although not regulated by international law.⁴⁴ The U.S. should continue to follow this practice but should go beyond doing it as a matter of comity. As recommended by the Church Committee in 1976, the U.S. should ban political assassination by formal congressional legislation. Not only does this clarify any ambiguity within the government, but also it sends a message to the rest of the world that the U.S. will not use political assassination as a means of achieving its strategic objectives.

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²⁵ Ibid, 9,10.

²⁶ Ibid, 11, 12.

²⁷ Ibid, 8.

²⁸ Significant reliance was placed on the research of Parks due to the legitimacy of his publication. Serving as the Special Assistant to the Judge Advocate General of the Army, his Memorandum of Law "Executive Order 12333 and Assassination" was coordinated with and concurred in by the Legal Adviser, Department of State; the General Counsel, Central Intelligence Agency; the Legal Adviser, National Security Council; the Office of Legal Policy, Department of Justice; the General Counsel,

Department of Defense; and the Judge Advocate Generals of the Air Force and Navy.

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⁴⁴ Black's Law Dictionary, 4th ed, 1986, quoted in Alvin W. Keller, Jr., Targeting the Head of State During the Gulf War, A Legal Analysis (Cameron Station, Alexandria, VA: Defense Technical Information Center, 1992), 13.

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